

Federal Court



Cour fédérale

Date: 20250131

Docket: IMM-8213-23

Citation: 2025 FC 200

Ottawa, Ontario, January 31, 2025

PRESENT: The Honourable Madam Justice Heneghan

BETWEEN:

JASKARAN SINGH

Applicant

and

**THE MINISTER OF CITIZENSHIP
AND IMMIGRATION**

Respondent

REASONS AND JUDGMENT

[1] Mr. Jaskaran Singh (the “Applicant”) seeks judicial review of the decision of an officer (the “Officer”) refusing his application for a Temporary Resident Visa (“TRV”). The application was refused on grounds of misrepresentation.

[2] The Applicant is a citizen of India. He applied for the TRV on November 28, 2022. On March 7, 2023, he received a Procedural Fairness Letter from Immigration, Refugees and

Citizenship Canada, asking about his answer to the question inquiring whether he had ever been charged or convicted of a criminal offence in “any” country. The Applicant had answered this question in the negative, in his TRV application, that is on form IMM 5257.

[3] In his reply to the Procedural Fairness Letter, the Applicant explained that he had “cut and pasted” his answers from an earlier application form and was unaware that his information was incorrect.

[4] The Applicant had been charged with mischief on October 13, 2018; the charge was dismissed on May 17, 2021. He had been charged with driving offences on September 26, 2021. The charges were reduced to careless driving and the Applicant was fined \$1,000 on February 17, 2023.

[5] The Officer refused the TRV application on the grounds of misrepresentation pursuant to subsection 40(1)(a) of the *Immigration and Refugee Protection Act*, S.C. 2001, c. 27 (the “Act”).

[6] The Applicant now argues that the Officer committed a reviewable error by finding that the mistake was material to the administration of the Act, by failing to apply the “innocent misrepresentation” exception, and by ignoring his response to the Procedural Fairness letter. He also submits that he suffered a breach of procedural fairness since the letter did not clearly set out the grounds which a response was requested.

[7] The Minister of Citizenship and Immigration (the “Respondent”) argues that the Officer did consider the Applicant’s response to the Procedural Fairness letter. While conceding that that letter lacked detail, he submits that it contained sufficient detail to inform the Applicant as to the concerns of the Officer and to allow the Applicant to make a meaningful response.

[8] Any issue of procedural fairness is reviewable on the standard of correctness; see the decision in *Canada (Citizenship and Immigration) v. Khosa*, [2009] 1 S.C.R. 339.

[9] Following the decision in *Canada (Citizenship and Immigration) v. Vavilov*, [2019] 4 S.C.R. 653, the merits of the decision are reviewable on the standard of reasonableness.

[10] In considering reasonableness, the Court is to ask if the decision under review “bears the hallmarks of reasonableness – justification, transparency and intelligibility – and whether it is justified in relation to the relevant factual and legal constraints that bear on the decision”; see *Vavilov*, *supra*, at paragraph 99.

[11] I see no breach of procedural fairness here. The letter, although “short” on detail, put the Applicant on notice that there were concerns about the veracity of the information that he provided on form IMM 5257.

[12] The Applicant answered the Procedural Fairness letter. In my opinion, his response shows that he “understood” the request in that letter.

[13] The hallmark of procedural fairness is that the party has to know the “case to be met”; see the decision in *Canadian Pacific Railway Company v. Canada (Attorney General)*, 2018 FCA 69, 1 F.C.R. 121.

[14] The Applicant’s reply shows that he understood the inquiry from the Officer, that is about the information he had provided in his TRV application. He gave an explanation for those answers.

[15] However, the Officer did not accept the explanation and pursuant to the test in *Vavilov*, *supra*, the Court must ask if that response was reasonable.

[16] The Officer, not the Court, is mandated to assess the evidence presented by the Applicant, including his reply to the Procedural Fairness Letter.

[17] I am not persuaded that the Officer unreasonably concluded that the misinformation provided by the Applicant was “material” and could “induce an error in the administration” of the Act. The Officer provided reasons for this conclusion.

[18] The Officer rejected that Applicant’s submissions that he had made a mistake and should benefit from the “innocent misrepresentation” exception.

[19] The Applicant had prior experience in dealing with visa applications. He had been a student and an employee in Canada. He had last applied for a visa in 2020. According to the

Global Case Managing System notes, the Applicant had made a similar omission in his visa application in 2020.

[20] The Applicant said, in his response to the Procedural Fairness Letter, that he had prepared the most recent application without assistance from an immigration agent and that he had “cut and pasted” from an earlier application.

[21] I agree with the position of the Respondent that the “innocent misrepresentation” exception is of no assistance to the Applicant, because knowledge of the misrepresentation was not “beyond the Applicant’s control”; see *Ahmed v. Canada (Citizenship and Immigration)*, 2020 FC 107 at para 32.

[22] The Officer clearly set out the reasons for the refusal, referring to the available evidence. The Officer declined to accept the explanation given by the Applicant. That assessment fell within the statutory authority.

[23] The Applicant has failed to show that the decision fails to meet the applicable standard of review, the decision meets the criteria of justification, transparency, and intelligibility.

[24] In the result, the application for judicial review will be dismissed.

JUDGMENT IN IMM-8213-23

THIS COURT'S JUDGMENT is that the application for judicial review is dismissed.

There is no question for certification.

"E. Heneghan"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-8213-23

STYLE OF CAUSE: JASKARAN SINGH v. MCI

PLACE OF HEARING: FREDERICTON, NEW BRUNSWICK

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